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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/639,004	08/15/00	PEREVOZCHIKOV	M 0315000496

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EXAMINER
VRABLIK, J

ART UNIT	PAPER NUMBER
3748	

DATE MAILED:

06/01/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/639,004

Applicant(s)

PEREVOZCHIKOV ET AL.

Examiner

John J. Vrablik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,11,12,21,22,26-28 and 30 is/are rejected.
- 7) ☒ Claim(s) 3-10,13-20,23-25,29 and 31-33 is/are objected to.
- 8) ☐ Claims ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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DETAILED ACTION

Specification

Page 5, line 6, "valve" has been changed to --vane--; and page 10, line 12, "thrush" has been changed to --thrust-- by informal examiner's amendment.

Claim Rejections - 35 USC § 112

Claims 26 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 26 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: Structure to communicate the fluid passage outside the shell.

Double Patenting

Claims 5-7 are objected to under 37 CFR 1.75 as being a substantial duplicate of claim 4. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claims 18, 19 and 20 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 8, 9 and 10, respectively. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a

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slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 11 and 12 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Caillat et al. (Fig. 4). The reference shows a scroll compressor comprising a shell; first and second scroll members in the shell, the scroll members defining a plurality of closed pockets; and a fluid circuit (56', 122, 112') in communication with at least one of the plurality of pockets, the fluid circuit including a fluid passage extending from one pocket to a position outside the shell, the fluid passage extending through the second orbiting scroll member as claimed.

Claims 21, 22, 27 and 28 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Oikawa. The reference shows a scroll compressor comprising a shell having a suction zone and a discharge zone; first and second scroll members in the shell, the scroll members defining a plurality of closed pockets; a fluid circuit (25, 26) in communication with at least one of the plurality of pockets, the fluid circuit including a fluid passage extending from the one pocket to the suction zone of the compressor, the fluid passage extending through the second orbiting scroll member, and a valve (28) for controlling fluid flow through the passage as recited.

Allowable Subject Matter

Claims 3, 4, 8-10, 13-17, 23-25, 29 and 31-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Terauchi (Fig. 9) shows a bypass valve (46') for a passage (245') in the orbiting scroll member (241).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Vrablik whose telephone number is (703) 308-2629. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion can be reached on (703) 308-2623. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7763 for regular communications and (703) 308-7763 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.

A handwritten signature in black ink, appearing to read "John J. Vrablik". The signature is fluid and cursive, with the first name "John" and last name "Vrablik" clearly distinguishable.

John J. Vrablik
Primary Examiner
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jiv
May 24, 2001